



The Confederated Tribes of the Grand Ronde Community of Oregon
Umpqua Molalla Rogue River Kalapuya Chasta

Tribal Council
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March 21, 2018

Oregon Department of Environmental Quality (DEQ)
Attn: David Feldman, Senior Permit Writer
700 NE Multnomah St, Suite #600
Portland, OR 97232-4100

RE: DEQ 900 J Seafood Processor Permit Renewal

Dear Mr. Feldman:

On behalf of the Confederated Tribes of the Grand Ronde Community of Oregon (Grand Ronde or Tribe), thank you for the opportunity to comment on the DEQ's renewal of the 900 J Seafood Process Permit (Permit). Grand Ronde is a sovereign Tribal nation made up of over 27 antecedent tribes and bands with homelands in western Oregon, southwest Washington, and northern California.

Grand Ronde's connection to the coast and the ocean is still present within the Tribe's community today through its stories, practices, and language. The resources of the ocean are integral to the well-being of Grand Ronde's Tribal members. The ocean is not just a place to visit or a source of food for the Tribe, but also a source of its culture. Without the ocean and its resources, the Tribe's culture would be severely impacted. Thus any impact to the ocean and its resources directly affects the Tribe. As such, the Tribe has an interest in the potential effects to its natural and cultural resources resulting from the proposed Permit renewal.

While the Tribe acknowledges the efforts made through the new regulation requirements to provide additional water quality protections, such as additional monitoring requirements for pH, ammonia, temperature, and bacteria, some key concerns remain. The Tribe's concerns are listed below for ease of reference.

1. Cumulative Effects Evaluation: Per conversations with Senior NPDES Permit Writer, David Feldman, it is the Tribe's understanding that cumulative effects are addressed through the establishment and implementation of Total Maximum Daily Loads (TMDLs). If such is the case, it is vital that TMDLs are up-to-date and implemented in full. As was discussed in the Tribe's letter addressed to the DEQ on September 14th, 2017, and during the government-to-government meeting with Director Richard Whitman on November 27th, 2017, the Tribe has significant concerns with the DEQ's timeliness in updating and implementing all of the necessary TMDLs that are currently either non-existent and/or unapproved by the U.S. Environmental Protection Agency (EPA).

Treaties

*Rogue River 1853 & 1854 ~ Umpqua-Cow Creek 1853 ~ Chasta 1854 ~ Umpqua & Kalapuya 1854
Willamette Valley 1855 ~ Molalla 1855*

If the cumulative effects of this permit are to be addressed through the TMDL process, the Tribe would ask that cumulative effects resulting from DEQ permitted actions are also evaluated in an ongoing manner as permits are approved, not solely through the establishment of TMDLs.

2. Timeliness: Per the public notice, the previous permit expired in 2011, and the DEQ has been extending permits for existing permitted facilities until the new Permit could be renewed. While the Tribe acknowledges that this new Permit will require some changes to industry practices and understands the intent to “grandfather” some of the facilities in to the new Permit requirements, the delay in full compliance and adequately protective water quality standards puts aquatic resources, and therefore Tribal members at risk.
3. Monitoring: The Permit specifies that permittees are responsible for monitoring a given number of variables according to standards as set forth by DEQ. Though the Tribe acknowledges the extensive monitoring requirements as set forth by DEQ, concerns remain over the ability of the DEQ to adequately ground check each of the facilities to ensure facilities are upholding these monitoring standards.

In addition, the Permit only requires a mixing zone study to be completed once per facility. The allowable mixing zones are given a set extent, and it is assumed based on the one mixing zone study that the allowable mixing zone limits, which are the same for each facility no matter which water body it is discharging to, will be sufficient. Per conversations with DEQ staff it is the Tribe’s understanding that if there are any issues, the breaching of the allowable mixing zone will be self-evident through the monitoring reports, and then DEQ will take action. The Tribe’s concern with this approach is that it does not address the differences between water bodies, which may require smaller mixing zones, and that it is reactionary as opposed to preventative. This again puts Tribal resources and Tribal members who utilize these resources at risk.

4. Violations and Enforcement: The DEQ’s public notice flyer mentioned that there had been a number of violations associated with the older version of this Permit. Tribal staff reached out to DEQ staff to inquire and obtain additional information regarding the violations mentioned, inquiring as to the number of past violations, the causation behind them, and whether there were repeat offenders. Per conversations with DEQ staff, the Tribe was instructed to file a public records request, as this new format is a requirement for obtaining information according to the new public records laws. While the Tribe appreciates the ability to obtain the information, the Tribe would advocate that it is the DEQ’s responsibility to obtain, evaluate, and incorporate this information into the DEQ’s current management, such as renewing the 900 J Permit.

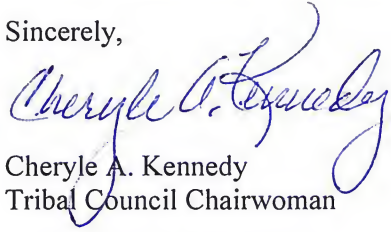
Without a full understanding of past violations, it would be difficult to promote a more stringent Permit with sufficient confidence in either the DEQ’s ability to enforce it or the permittees’ ability to adhere to it. As such, the Tribe requests that the DEQ obtain the pertinent and available information concerning past violations and complete a full evaluation, which may impact the Permit itself, and share such information with the Tribe so that it may make more substantial comments before the DEQ elects to renew this Permit.

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Once again, thank you for this opportunity to comment. Please contact Meagan Flier, Environmental Resources Specialist, at (503) 879-1458 or Meagan.Flier@grandronde.org if you have any questions regarding the above comments.

Sincerely,



Cheryle A. Kennedy
Tribal Council Chairwoman

Cc: Tribal Council
Stacia Hernandez, Chief of Staff
Christine Svetkovich, DEQ Tribal Liaison
Julie Johnson, OHA Tribal Affairs Director
Rebecca Hillwig, OHA Natural Resource Specialist

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